

Nos. 23-1174 (L), 23-1221

---

IN THE  
**United States Court of Appeals  
for the District of Columbia Circuit**

---

CITY OF PORT ISABEL, ET AL.,

*Petitioners,*

v.

FEDERAL ENERGY REGULATORY COMMISSION,

*Respondents,*

RIO BRAVO PIPELINE COMPANY, LLC; RIO GRANDE LNG, LLC

*Intervenors for Respondent.*

---

On Petition for Review of Orders of the  
Federal Energy Regulatory Commission

---

**AMICI CURIAE BRIEF OF THE CITY OF BROWNSVILLE, TEXAS;  
CAMERON COUNTY, TEXAS; GREATER BROWNSVILLE  
INCENTIVES CORPORATION; BROWNSVILLE COMMUNITY  
IMPROVEMENT CORPORATION; BROWNSVILLE CHAMBER  
OF COMMERCE, CITY OF LOS FRESNOS, TEXAS; TOWN OF  
RANCHO VIEJO, TEXAS; TOWN OF INDIAN LAKE, TEXAS; AND  
THE CITY OF EDINBURG, TEXAS IN SUPPORT OF  
INTERVENORS RIO BRAVO PIPELINE COMPANY, LLC AND  
RIO GRANDE LNG, LLC'S PETITIONS FOR PANEL REHEARING  
AND REHEARING EN BANC**

---

*(counsel listed on the inside cover)*

Guillermo “Will” S. Trevino  
City Attorney  
DC Circuit Bar No. 65535  
Texas State Bar No. 24044743  
Litigation@brownsvilletx.gov

Will.Trevino@brownsvilletx.gov  
(956) 548-6070  
1001 East Elizabeth Street  
Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

Anne M. Voigts  
Pillsbury Winthrop Shaw Pittman  
LLP  
2550 Hanover Street  
Palo Alto, CA 94304-1115

(650) 233-4075  
anne.voigts@pillsburylaw.com

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*

**CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to D.C. Circuit Rule 28(a)(1), *amici curiae* submit this certificate as to parties, rulings, and related cases.

**A. PARTIES AND *AMICI***

The parties who have appeared before the Court are listed in Petitioners' Circuit Rule 28(a)(1) certificate. Undersigned counsel is not aware of any *amici curiae* who have sought to appear other than the Brownsville Navigation District.

**B. RULINGS UNDER REVIEW**

The Petitioners seek review of two orders of Respondent Federal Energy Regulatory Commission: Rio Grande LNG, LLC, 183 FERC ¶ 61,046 (April 21, 2023), R. 3011, JA1-176; and Rio Grande LNG, LLC, 185 FERC ¶ 61,080 (October 27, 2023), R. 3080, JA177-238.

**C. RELATED CASES**

This case is related to *City of Port Isabel, et al., v. FERC*, D.C. Circuit Case Nos. 23-175(L) and 23-1222.

Date: October 28, 2024

Respectfully submitted

/s/ Guillermo “Will” S. Trevino  
City Attorney  
City of Brownsville  
DC Circuit Bar No. 65535  
Texas State Bar No. 24044743  
Litigation@brownsvilletx.gov  
Will.Trevino@brownsvilletx.gov  
(956) 548-6070  
1001 East Elizabeth Street  
Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

/s/ Anne M. Voigts  
Partner  
Pillsbury Winthrop Shaw  
Pittman LLP  
anne.voigts@pillsburylaw.com  
2550 Hanover Street  
Palo Alto, CA 94304-1115  
(650) 233-4075

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29, and D.C. Circuit Rule 26.1, the City of Brownsville, Texas (“Brownsville”), Cameron County, Texas (“Cameron”), Greater Brownsville Incentives Corporation (“GBIC”), Brownsville Community Improvement Corporation (“BCIC”), Brownsville Chamber of Commerce (“Chamber”), City of Los Fresnos, Texas (“Los Fresnos”), Town of Rancho Viejo, Texas (“Rancho Viejo”), Town of Indian Lake, Texas (“Indian Lake”), and the City of Edinburg, Texas (“Edinburg”) make the following disclosures:

1. Brownsville is a political subdivision of the State of Texas with a population of 186,738 and is located on the southern tip of Texas, near the United States - Mexico border and the Gulf of Mexico. As a municipality, Brownsville is known as the city that is “On the Border, By the Sea, and Beyond” and provides basic services, including public safety, ambulances, water and electric utilities, and public transit. Brownsville has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Brownsville. Brownsville has a seven-member City Commission that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

2. Cameron is a political subdivision of the State of Texas with a population of 425,208. As a county, Cameron provides basic services, including elections, public safety, building code enforcement, county clerk services, tax collection, and operates a county airport, an international bridge system, local courts and jails within its territory. Cameron has a County Judge and four County Commissioners who govern and are responsible for the health and safety of its citizens and for protecting its environment and economy.

3. GBIC is an incorporated, not-for-profit economic development corporation created under the Texas Development Corporation Act and the Texas Business Organization and Commerce Code to finance new and expanded business enterprises. As an extension of Brownsville, GBIC was created to fund industrial development projects such as business infrastructure, manufacturing, and research and development. GBIC can also fund military base realignment, job training classes, and public transportation. A sales and use tax of 0.025% is collected by the Texas Comptroller to fund those projects. GBIC has no parent corporation, and no publicly held company has a 10% or greater ownership interest in GBIC.

4. BCIC is an incorporated, not-for-profit economic development corporation created under the Texas Development Corporation Act and the

Texas Business Organization and Commerce Code to finance new and expanded business enterprises and cultivate communities. As an extension of Brownsville, BCIC was created to fund parks, museums, sports facilities, and affordable housing, in addition to projects eligible for GBIC funding. A sales and use tax of 0.025% is collected by the Texas Comptroller to fund those projects. BCIC has no parent corporation, and no publicly held company has a 10% or greater ownership interest in BCIC.

5. The Chamber is an incorporated, not-for-profit corporation created to serve as a Chamber of Commerce and for that end, to promote the civil, commercial, industrial, transportation, international, educational, agricultural, maritime, and other interests of the City of Brownsville and its contiguous territory; and to correlate the efforts of citizens of Brownsville and of the members of this organization, to engage in research and study that is pertinent to the needs of the membership and the community and on completion of such study and research, to make the results available to the members; to foster and maintain goodwill and friendly relations with business persons and officials of Brownsville's sister City of Matamoros, State of Tamaulipas and the Republic of Mexico. Chamber has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Chamber.

6. Los Fresnos (Spanish for ash tree) is a political subdivision of the State of Texas with a population of 8,114. As a municipality, Los Fresnos is known as the “Community with Opportunity” as it provides basic services, including public safety, ambulances, water and electric utilities. Los Fresnos has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Los Fresnos. Los Fresnos has a six-member City Council that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

7. Rancho Viejo (Spanish for old ranch) is a political subdivision of the State of Texas with a population of 2,838. As a municipality, Rancho Viejo is situated between the South Texas cities of Brownsville and Harlingen. The Rancho Viejo community is built around stunning tropical waterways – or Resacas - and one of the finest golf courses in the Rio Grande Valley. Rancho Viejo provides basic services, including public safety, ambulances, water, and electric utilities. Rancho Viejo has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Rancho Viejo. Rancho Viejo has a six-member Board of Aldermen that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.



8. Indian Lake is a political subdivision of the State of Texas with a population of 843. As a municipality, Indian Lake known for its peacock population that roams freely, provides basic services, including public safety, ambulances, water and electric utilities. Indian Lake has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Indian Lake. Indian Lake has a six-member Town Council that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

9. Edinburg is a political subdivision of the State of Texas with a population of 104,294. As a municipality, it is the county seat of Hidalgo County and has been recognized as an All-America City four times by the National Civic League. Edinburg is also home to one of the University of Texas System's leading schools, the University of Texas Rio Grande Valley. Edinburg provides basic services, including public safety, ambulances, water and electric utilities, and public transit. Edinburg has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Edinburg. Edinburg has a five-member City Council that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

Date: October 28, 2024

Respectfully submitted

/s/ Guillermo “Will” S. Trevino

City Attorney

City of Brownsville

DC Circuit Bar No. 65535

Texas State Bar No. 24044743

Litigation@brownsvilletx.gov

Will.Trevino@brownsvilletx.gov

(956) 548-6070

1001 East Elizabeth Street

Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

/s/ Anne M. Voigts

Partner

Pillsbury Winthrop Shaw

Pittman LLP

anne.voigts@pillsburylaw.com

2550 Hanover Street

Palo Alto, CA 94304-1115

(650) 233-4075

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*

## TABLE OF CONTENTS

	<b>Page</b>
CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES .....	i
TABLE OF CONTENTS.....	ix
TABLE OF AUTHORITIES .....	x
GLOSSARY .....	xiii
IDENTITY AND INTEREST OF AMICI CURIAE .....	1
INTRODUCTION AND SUMMARY OF ARGUMENT .....	2
ARGUMENT .....	3
A.    The Panel’s Decision Will Have Devastating Consequences for Amici’s Communities .....	3
1.    The Panel Did Not Consider The Real-World Consequences of Its Decision.....	3
2.    The Project’s Success Is Critical to Amici and Their Communities .....	5
3.    If Allowed to Stand, The Panel’s Decision Is Potentially Devastating to Amici’s Efforts .....	7
4.    Vacatur Will Gut Amici’s Policies and Programs .....	11
CONCLUSION.....	15
CERTIFICATE OF COUNSEL .....	16
CERTIFICATE OF COMPLIANCE.....	18
CERTIFICATE OF SERVICE .....	19

## **TABLE OF AUTHORITIES**

### **Page(s)**

### **Cases**

<i>Allied-Signal, Inc. v. U.S. Nuclear Regul. Comm'n</i> , 988 F.2d 146 (D.C. Cir. 1993) .....	4
<i>Cal. Cmty. Against Toxics v. U.S. E.P.A.</i> , 688 F.3d 989 (9th Cir. 2012).....	4, 11
<i>Healthy Gulf v. FERC</i> , 107 F.4th 1033 (D.C. Cir. 2024) .....	4
<i>Marsh v. Or. Nat. Res. Council</i> , 490 U.S. 360 (1989) .....	3
<i>Pub. Emps. for Envt. Resp. v. Hopper</i> , 827 F.3d 1077 (D.C. Cir. 2016) .....	4

### **Rules and Regulations**

Federal Rule of Appellate Procedure Rule 29(a)(4)(E) .....	1
---	---

### **Regulations**

2024 Demographics, Summary Data for Region: Rio Grande Valley, RGV Health Connect, <a href="https://www.rgvhealthconnect.org/demographicdata?id=281259">https://www.rgvhealthconnect.org/demographicdata?id=281259</a> .....	5
Adolfo Pesquera, <i>Brownsville City Commission OKs 1,330-Acre Madeira Development Agreement</i> , Virtual Builders Exchange (Dec. 17, 2021), <a href="https://www.virtualbx.com/construction-preview/brownsville-city-commission-oks-1300-acre-madeira-development-agreement/">https://www.virtualbx.com/construction-preview/brownsville-city-commission-oks-1300-acre-madeira-development-agreement/</a> .....	14
Brownsville, Tx, Census Reporter, <a href="https://censusreporter.org/profiles/16000US4810768-brownsville-tx/">https://censusreporter.org/profiles/16000US4810768-brownsville-tx/</a> .....	6

Chetty, R., <i>et al.</i> , <i>Changing Opportunity: Sociological Mechanisms Underlying Growing Class Gaps and Shrinking Race Gaps in Economic Mobility</i> , July 2024, National Bureau of Economic Research, <a href="https://www.nber.org/papers/w32697">https://www.nber.org/papers/w32697</a> .....	6-7
David Garza, <i>If LNG projects are not completed, Cameron County will face significant financial limitations</i> , Rio Grande Guardian (Oct. 24, 2024), <a href="https://riograndeguardian.com/garza-if-lng-projects-are-not-completed-cameron-county-will-face-significant-financial-limitations/">https://riograndeguardian.com/garza-if-lng-projects-are-not-completed-cameron-county-will-face-significant-financial-limitations/</a> .....	9
Government Frameworks.com, <i>Significant Capital Works and Projects</i> (last accessed Oct. 27, 2024), <a href="https://www.arcadiacouncil.governmentdashboards.com/city-of-brownsville-capital-improvement-projects">https://www.arcadiacouncil.governmentdashboards.com/city-of-brownsville-capital-improvement-projects</a> .....	12
Luis Montoya, <i>Cameron County gives Rio Grande LNG a \$373,100,000.00 tax break</i> , Rio Grande Guardian (Oct. 4, 2017), <a href="https://riograndeguardian.com/cameron-county-gives-rio-grande-lng-a-373100000-00-tax-break/">https://riograndeguardian.com/cameron-county-gives-rio-grande-lng-a-373100000-00-tax-break/</a> .....	7
Melisa Čavčić, <i>\$18.4 billion gas project’s life on the line – Court ruling poses a threat to US LNG infrastructure buildout, developer says</i> , Offshore Energy (Sept. 11, 2024), <a href="https://www.offshore-energy.biz/18-4-billion-gas-projects-life-on-the-line-court-ruling-poses-a-threat-to-us-lng-infrastructure-buildout-developer-says/">https://www.offshore-energy.biz/18-4-billion-gas-projects-life-on-the-line-court-ruling-poses-a-threat-to-us-lng-infrastructure-buildout-developer-says/</a> .....	9
RG LNG, Rio Grande LNG (last accessed Oct. 27, 2024), <a href="https://www.standwithrglng.com/">https://www.standwithrglng.com/</a> .....	8
RG Rio Grande LNG July 2024 Local Content Report. ....	9
Richard Harrison, <i>Estrella of Brownsville Texas by Rhodes Enterprises</i> , YouTube (last accessed Oct. 27, 2024), <a href="https://youtu.be/7tEFuoh79Z4?si=Y1pADBnPyJf1PMcP">https://youtu.be/7tEFuoh79Z4?si=Y1pADBnPyJf1PMcP</a> .....	14
Stefany Rosales, <i>Los Fresnos project underway to create space for homes, businesses</i> , KRGV.com (April 29, 2024), <a href="https://www.krgv.com/news/los-fresnos-project-underway-to-create-space-for-homes-businesses/">https://www.krgv.com/news/los-fresnos-project-underway-to-create-space-for-homes-businesses/</a> .....	14

Steve Clark, *Cameron Co. tapped for economic development award; state cites Rio Grande LNG's 'exceptional contribution'*, MyRGV.com (Oct. 25, 2024), [https://myrgv.com/local-news/2024/10/25/cameron-co-tapped-for-economic-development-award-state-cites-rio-grande-lngs-exceptional-contribution/#google\\_vignette.....](https://myrgv.com/local-news/2024/10/25/cameron-co-tapped-for-economic-development-award-state-cites-rio-grande-lngs-exceptional-contribution/#google_vignette.....) 6

## **GLOSSARY**

**BCIC** means the Brownsville Community Improvement Corporation

**BISD** means the Brownsville Independent School District

**Brownsville** means the City of Brownsville, Texas

**Cameron** means Cameron County, Texas

**Chamber** means the Brownsville Chamber of Commerce

**Edinburg** means the City of Edinburg, Texas

**FERC** means Federal Energy Regulatory Commission

**GBIC** means the Greater Brownsville Incentives Corporation

**Indian Lake** means the Town of Indian Lake, Texas

**Intervenors Reh’g Pet.** means Intervenors Rio Bravo Pipeline Company, LLC and Rio Grande LNG, LLC’s Petitions for Panel Rehearing and Rehearing En Banc (Doc. 2081045) (Oct. 21, 2024)

**LNG** means liquefied natural gas

**Los Fresnos** means the City of Los Fresnos, Texas

**NGA** means the Natural Gas Act, 15 U.S.C. § 717 *et seq.*

**The Project** means Rio Bravo Pipeline Company, LLC and Rio Grande LNG, LLC’s Liquefied Natural Gas infrastructure project

**Rancho Viejo** means the Town of Rancho Viejo, Texas

**Rio Bravo** means the Rio Bravo Pipeline Company, LLC

**Rio Grande** means the Rio Grande LNG, LLC

## IDENTITY AND INTEREST OF AMICI CURIAE

Amici curiae are local governmental agencies and business and development organizations directly interested in the Rio Grande Project, and its economic importance to the Rio Grande Valley.<sup>1</sup>

The Cities of Brownsville, Edinburg, and Los Fresnos are home rule municipalities under the Texas Constitution and Local Government Code. Cameron County is a political subdivision of the State of Texas. The Greater Brownsville Incentives Corporation (“GBIC”) and the Brownsville Community Improvement Corporation (“BCIC”) are nonprofit development corporations created under the Texas Development Corporation Act and Business Organization and Commerce Code. The Brownsville Chamber of Commerce is a business organization advancing its members’ business interests through leadership, civic engagement, promotion, support, and advocacy. The Towns of Rancho Viejo and Indian Lake are Type A general law municipalities operating under aldermanic government.

Because amici work to benefit their communities, promote economic growth, and create opportunities for their residents, they are deeply

---

<sup>1</sup> Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), no counsel for any party authored this brief in whole or in part, and no party or counsel for a party contributed money intended to fund the preparation or submission of this brief. No person other than amici curiae, their members, or their



interested in, and can offer a unique perspective on, the issues presented by Intervenor Rio Bravo Pipeline Company, LLC's and Rio Grande LNG, LLC's petitions.<sup>2</sup>

## **INTRODUCTION AND SUMMARY OF ARGUMENT**

The panel's erroneous decision vacating FERC's authorization for the Rio Bravo Pipeline Company, LLC's and Rio Grande LNG, LLC's Liquefied Natural Gas infrastructure project threatens devastating consequences for the communities whose economic welfare depends on that project. This brief focuses on the real-world consequences for those communities.

Amici's communities face long-standing economic challenges. The Project has already created jobs, both directly and indirectly, benefited the community by increasing revenues for community services, and become an anchoring point for community planning. All of that is now at risk, with potentially devastating consequences.

Those consequences flow well beyond this Project or this region. The panel's decision could potentially impact the viability of virtually all

---

counsel contributed money intended to fund the brief's preparation or submission.

<sup>2</sup> Intervenor Texas LNG Brownsville LLC filed a rehearing petition in related cases Nos. 23-1175(L), 23-1222, from an opinion plagued by similar flaws that should be reheard for similar reasons.

federally permitted infrastructure projects which will struggle to attract capital investments unless they receive final unappealable permits. That leaves those projects in an impossible position—they need investments to get projects off the ground (and obtain the requisite permits), but they can’t get those investments until they have navigated a lengthy permitting process.

This Court should grant rehearing.

## **ARGUMENT**

### **A. The Panel’s Decision Will Have Devastating Consequences for Amici’s Communities**

#### **1. The Panel Did Not Consider the Real-World Consequences of Its Decision**

As the petition explains, the panel committed two critical legal errors. While amici will not repeat those arguments, the failure to adequately consider the decision’s impact only underscores the imbalance between FERC’s purported error and the chosen remedy.

A Supplemental Environmental Impact Statement is only necessary when agencies obtain new information “sufficient to show that” the action “will ‘affect[] the quality of the human environment’ in a significant manner or to a significant extent not already considered.” *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 374 (1989) (cleaned up). Here, even though FERC

thoroughly vetted the Project's impacts twice, the panel erroneously concluded that it must do so a third time even though the additional information is not significant. The panel compounded that error by requiring vacatur. In so doing, it simultaneously oversold the extent of FERC's purported explanatory errors, which very likely will be cured on remand, and undersold the disruptive consequences of vacatur.

As this Court has repeatedly recognized, “[a]n inadequately supported rule ... need not necessarily be vacated.” *Allied-Signal, Inc. v. U.S. Nuclear Regul. Comm’n*, 988 F.2d 146, 150–51 (D.C. Cir. 1993) (cleaned up). Whether to vacate depends on “the seriousness of the order’s deficiencies (and thus the extent of doubt whether the agency chose correctly) and the disruptive consequences of an interim change that may itself be changed.” *Id.* (cleaned up); *see also Healthy Gulf v. FERC*, 107 F.4th 1033 (D.C. Cir. 2024) (vacatur not warranted because it was reasonably likely that FERC could redress defects on remand and still authorize project); *Pub. Emps. for Env’t Resp. v. Hopper*, 827 F.3d 1077, 1084 (D.C. Cir. 2016) (considering “social and economic costs” under *Allied-Signal*) (citations omitted); *Cal. Cmty. Against Toxics v. U.S. E.P.A.*, 688 F.3d 989, 994 (9th Cir. 2012) (rejecting vacatur because “[s]topping construction would ... be economically disastrous”).

As this brief explains, those real-world consequences are particularly devastating here. Sending this back for the third time will gut amici's efforts to address poverty and spur economic development.

## **2. The Project's Success Is Critical to Amici and Their Communities**

Amici comprise an area of the southern tip of Texas known as the Rio Grande Valley ("RGV"). According to the U.S. Census Bureau, the RGV suffered from persistent, long-term high poverty rates from 1989 to 2019. 25.16% percent of the families living there now fall below the poverty level, nearly triple the percentage for the United States. 2024 Demographics, Summary Data for Region: Rio Grande Valley, RGV Health Connect, <https://www.rgvhealthconnect.org/demographicdata?id=281259> (last visited Oct. 28, 2024). Residents struggle with diabetes, obesity, and cervical cancer, among other issues. The COVID-19 pandemic only exacerbated the RGV's challenges, aggravating economic depressions and heightening inequities. The four RGV counties – Starr, Hidalgo, Willacy, and Cameron counties – are among the nation's poorest, with an unemployment rate of 8.1%, and many residents cannot afford access to healthcare. *Id.* This \$18.4 billion project has offered some much-needed light at the end of that tunnel.

Intervenors have become community partners who meaningfully engaged with the public, hosting 26 open houses with more than 3,600

community members and engaging with more than 1,600 students from BISD, local charter, and private schools. Intervenors have already invested in local academic institutions by supporting vocational training programs for a better-prepared workforce. As a result, there has been tangible economic improvement. Steve Clark, *Cameron Co. tapped for economic development award; state cites Rio Grande LNG's 'exceptional contribution'*, MyRGV.com (Oct. 25, 2024), [https://myrgv.com/local-news/2024/10/25/cameron-co-tapped-for-economic-development-award-state-cites-rio-grande-lngs-exceptional-contribution/#google\\_vignette](https://myrgv.com/local-news/2024/10/25/cameron-co-tapped-for-economic-development-award-state-cites-rio-grande-lngs-exceptional-contribution/#google_vignette).

That improvement, in turn, allows amici to retain talented professionals. Brownsville, like the other amici, is a community with an average age of 29 years and an intergenerational workforce. Brownsville, Tx, Census Reporter, <https://censusreporter.org/profiles/16000US4810768-brownsville-tx/> (last visited Oct. 28, 2024). These residents want to work in their hometowns, and the Project offers them that opportunity. Its success will be pivotal to reversing the tide of poverty for generations of low-to-moderate-income families, who make up approximately 55% of the area's residents. During the Project's construction, data over the last two years confirms the shrinking race gap in economic mobility. Raj Chetty, *et al.*, *Changing Opportunity: Socio. Mechanisms Underlying Growing Class Gaps*

& *Shrinking Race Gaps in Econ. Mobility*, Nat'l Bureau of Econ. Res. (July 2024), <https://www.nber.org/papers/w32697>.

Like many economically challenged areas, amici face serious concerns about “brain drain.” Luis Montoya, *Cameron County gives Rio Grande LNG a \$373,100,000.00 tax break*, Rio Grande Guardian (Oct. 4, 2017), <https://riograndeguardian.com/cameron-county-gives-rio-grande-lng-a-373100000-00-tax-break/>. While student attendance at the local Texas Southmost College and the University of Texas Rio Grande Valley has increased, younger adults frequently must decide whether to stay in amici’s communities or leave for better paying opportunities. If talented professionals cannot find good jobs in the RGV, they will leave. That, in turn, undercuts amici’s efforts to promote sustainable communities where high-paying jobs are readily available, high-quality healthcare is accessible, and families can stay together. Creating good jobs is fundamental to combating poverty, opening the path to home ownership and environmental resiliency, and developing vibrant, sustainable, resilient communities.

### **3. If Allowed to Stand, The Panel’s Decision Is Potentially Devastating to Amici’s Efforts**

This decision poses a critical threat to the Project and the economic vitality of amici’s communities. Delaying or, worse yet, denying

authorization for the \$18.4 billion Project currently under construction would have devastating consequences for them.

The Project has already benefited those communities through direct jobs, indirect jobs, and increased revenues. Because Intervenor engaged local vendors to build and operate the Project's facilities, amici's local businesses and service providers already depend on employment opportunities with the Project. The Project has already added approximately 1,700 employees, the vast majority of whom are local, with approximately 50 new jobs being added each week. *Rio Grande LNG Project is at Risk*, RG LNG, <https://www.standwithrglng.com/> (last visited Oct. 27, 2024). By the end of 2024, an expected 2,000 jobs will be active on-site, with another 5,000 total jobs by this time next year. Moreover, the Project has emphasized hiring locally by committing to employing a minimum of 35% of their workforce from the surrounding community. *Commentary: LNG project supported*, Valley Morning Star (Oct. 10, 2024) (available at <https://myrgv.com/publications/valley-morning-star/2024/10/10/commentary-lng-project-supported/>).

Amici's communities also benefit from the indirect jobs created by the Project: Of the \$2.92B in vendor expenditures, 60% of vendors are local and will provide additional jobs. RG Rio Grande LNG July 2024 Local

Content Report. These employment figures underscore the Project's significant economic impact on the region, creating numerous high-paying jobs, supporting local workers, and boosting regional economic development.

Moreover, the Project's estimated \$136.9 million in tax revenue is a critical component of Cameron County's budget, directly funding essential services and infrastructure improvements, including crucial funding for education, infrastructure, quality-of-life initiatives, and drainage improvements. David Garza, *If LNG projects are not completed, Cameron County will face significant financial limitations*, Rio Grande Guardian (Oct. 24, 2024), <https://riograndeguardian.com/garza-if-lng-projects-are-not-completed-cameron-county-will-face-significant-financial-limitations/>.

Without it, Cameron County will face significant financial limitations. Melisa Čavčić, *\$18.4 billion gas project's life on the line – Court ruling poses a threat to US LNG infrastructure buildout, developer says*, Offshore Energy (Sept. 11, 2024), <https://www.offshore-energy.biz/18-4-billion-gas-projects-life-on-the-line-court-ruling-poses-a-threat-to-us-lng-infrastructure-buildout-developer-says/>. Its capacity to enhance public amenities, support educational programs, and improve infrastructure will be greatly diminished,



economic growth will potentially stall, and residents' overall quality of life will be diminished.

The benefits of Rio Grande LNG's investment in Cameron County are not purely economic. They have allocated millions of dollars to conserving over 4,000 acres of land, an area more than five times larger than the 761 acres affected by the facility. RG Rio Grande LNG, July 2024 Local Content Report. These efforts encompass preserving Las Lomas, protecting vital local wetlands, and expanding animal habitats—all of which also benefit amici's communities.

Furthermore, the Project encompasses the Brazos Island Harbor ("BIH") Channel Improvement Project, deepening the Port of Brownsville's ship channel in Cameron County. Intervenor, the U.S. Army Corps of Engineers and the Port have committed hundreds of millions of dollars to this project. The Port had been trying to execute that project since 2007. Intervenor's commitment made it a reality. If the ruling is upheld, however, it may not be completed, and those benefits will not materialize.

Finally, the panel's decision offers a dangerous lesson: If project developers (and potential investors in them) believe federal permits can be overturned due to minor missteps by regulators, independent of any actions or fault by developers, U.S. infrastructure projects will slow or stall out

entirely. Here, the Project is backed by financial commitments from major global players. But investors' willingness to participate in critical projects like these will wane if their investments are held hostage to courts second- or third-guessing regulatory decisions for no substantial reason.

#### **4. Vacatur Will Gut Amici's Policies and Programs**

Vacatur will also disrupt years of planning and programming by amici. *See, e.g., Cal. Cmty. Against Toxics*, 688 F.3d at 994 (rejecting vacatur in part because it would likely "create needless and duplicative legislative effort"). Amici have adopted policies, regulations, rules, and programs to spur workforce development, job training, and stabilization of the RGV's housing market based on the Project.

For example, before any resolutions or tax abatement considerations, Cameron held public hearings and solicited public feedback. Given the members' independent research and public hearings with LNG industry members, Cameron as a public entity voted to support this project moving forward. Commissioners made it a priority and committed to learning not only about liquefied natural gas, but who NextDecade is as a company. They met with NextDecade representatives from the local staff all the way up to the CEO. The Commission as a body feels that this is a transformational

project for the area that could improve the way their families live for generations to come.

Similarly, Brownsville has already factored in Intervenor's project in developing its capital improvement project ("CIP"). *Significant Cap. Works & Projects*, Gov't Frameworks.com, <https://www.arcadiacouncil.governmentdashboards.com/city-of-brownsville-capital-improvement-projects> (last visited Oct. 27, 2024). In so doing, it considered industrial growth mostly in the area where the Project is located, and increased traffic within the Port. And because of the Project, Brownsville: (1) set aside \$1.6 million in CIP funding, funded through debt supported by property taxes, to purchase specialized fire equipment; and (2) has appropriated \$12.7M for equipment to indirectly support the Project area.

Amici have also devoted considerable resources to planning for the Project. The LNG training in partnership with Intervenor began in October through a training hosted by Texas A&M Engineering Extension Service. This first phase was intended to help Brownsville better understand what resources it needed for emergency response to an LNG incident. Future training will include command and operational training for LNG response. Brownsville's Fire Department has also increased technical rescue training

in anticipation of increased industrial growth due to the Project. Equipment, including a new fire engine, will arrive to service the Port and Intervenors, and Brownsville will also have a new ladder truck and rescue truck to service increased industrial areas such as LNG.

Brownsville also drafted and adopted land use assumptions and begun updating its Comprehensive Plan based on the Project to prepare for future development (or redevelopment). For example, Brownsville's staff conducted research, collected and analyzed data, participated in internal discussions, and produced an ordinance for temporary workforce housing sites or facilities. Because of the expected influx of transient and permanent workers for Intervenors, and the growing number of employees needed for the Project, housing development has increased. Both Brownsville and Cameron have adopted ordinances and orders, respectively, creating Public Improvement Districts ("PID") letting them levy assessments to fund specific improvements, as well as Tax Increment Reinvestment Zones ("TIRZ"). Those assessments can be used to pay for community enhancements like road construction, water distribution systems, wastewater collection, landscaping, parks, recreational opportunities, and more. Given the expected economic growth and increased demand for housing from the Project, Brownsville and Cameron have created PIDs and TIRZs for a 1,300-

acre-plus community combining residential and commercial construction, with 3,000 residential lots and six miles of commercial frontage. Adolfo Pesquera, *Brownsville City Commission OKs 1,330-Acre Madeira Development Agreement*, Virtual Builders Exchange (Dec. 17, 2021), <https://www.virtualbx.com/construction-preview/brownsville-city-commission-oks-1300-acre-madeira-development-agreement/>. Brownsville and Cameron are negotiating to create additional PIDs and TIRZs for a 1,013-acre site with over 3,232 single family residences and commercial development. Richard Harrison, *Estrella of Brownsville Texas by Rhodes Enterprises*, YouTube, <https://youtu.be/7tEFuoh79Z4?si=Y1pADBnPyJf1PMcP> (last visited Oct. 27, 2024).

Rancho Viejo, Los Fresnos, Indian Lake and Edinburg have similar projects underway. In particular, Los Fresnos is developing regulations and preparing to turn empty land into 800 homes and new business space as part of an anticipated \$60 million project. Stefany Rosales, *Los Fresnos project underway to create space for homes, businesses*, KRGV.com (Apr. 29, 2024), <https://www.krgv.com/news/los-fresnos-project-underway-to-create-space-for-homes-businesses/>. Should this ruling stand, those efforts would go to waste, creating a housing crisis in the RGV.

## CONCLUSION

Because the real-world consequences of this decision will be devastating for amici, this Court should grant rehearing.

Date: October 28, 2024

Respectfully submitted

/s/ Guillermo “Will” S. Trevino  
City Attorney  
City of Brownsville  
DC Circuit Bar No. 65535  
Texas State Bar No. 24044743  
Litigation@brownsvilletx.gov  
Will.Trevino@brownsvilletx.gov  
(956) 548-6070  
1001 East Elizabeth Street  
Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

/s/ Anne M. Voigts  
Partner  
Pillsbury Winthrop Shaw  
Pittman LLP  
anne.voigts@pillsburylaw.com  
2550 Hanover Street  
Palo Alto, CA 94304-1115  
(650) 233-4075

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*

### CERTIFICATE OF COUNSEL

Pursuant to D.C. Circuit Rule 29(d), counsel for amici curiae certify that, to their knowledge, no other government or non-government amicus brief of which they are aware focuses on the precise topics addressed in this brief—namely, the broad and irreparable harms to the Project's viability or the broader economic and environmental benefits the Project is set to deliver for amici, and additional ways in which the panel's opinion deviate from Supreme Court and the Fourth, Fifth, and Ninth Circuits precedent. Moreover, no other amicus brief represents the perspective of the communities and local governments that will reap the benefits of these projects. As local governmental agencies of the State of Texas and leading trade organizations intimately familiar with the local economy and the importance of the projects to amici's economy, home market stability, and attempts to end poverty in an area that has the highest unemployment rate in the nation, amici are well-suited to provide important context for the court, as well as a unique perspective on these subjects. During the preparation of this brief, amici endeavored to coordinate with Intervenor and other prospective amici to avoid duplicative briefing.

Date: October 28, 2024

/s/ Guillermo “Will” S. Trevino

City Attorney

City of Brownsville

DC Circuit Bar No. 65535

Texas State Bar No. 24044743

Litigation@brownsvilletx.gov

Will.Trevino@brownsvilletx.gov

(956) 548-6070

1001 East Elizabeth Street

Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

Respectfully submitted

/s/ Anne M. Voigts

Partner

Pillsbury Winthrop Shaw

Pittman LLP

anne.voigts@pillsburylaw.com

2550 Hanover Street

Palo Alto, CA 94304-1115

(650) 233-4075

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*



## CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(b)(4) because this brief contains 2,598 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and D.C. Circuit Rule 32(e)(1), as determined by the word-counting feature of Microsoft

Word.

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6), because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Times New Roman 14-point font.

Date: October 28, 2024

Respectfully submitted

/s/ Guillermo “Will” S. Trevino

/s/ Anne M. Voigts

City Attorney

Partner

City of Brownsville

Pillsbury Winthrop Shaw

DC Circuit Bar No. 65535

Pittman LLP

Texas State Bar No. 24044743

anne.voigts@pillsburylaw.com

Litigation@brownsvilletx.gov

2550 Hanover Street

Will.Trevino@brownsvilletx.gov

Palo Alto, CA 94304-1115

(956) 548-6070

(650) 233-4075

1001 East Elizabeth Street

Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Appellate Procedure 25, I hereby certify that, on October 28, 2024, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

Date: October 28, 2024

Respectfully submitted

/s/ Guillermo "Will" S. Trevino  
City Attorney  
City of Brownsville  
DC Circuit Bar No. 65535  
Texas State Bar No. 24044743  
Litigation@brownsvilletx.gov  
Will.Trevino@brownsvilletx.gov  
(956) 548-6070  
1001 East Elizabeth Street  
Brownsville, Texas 78520

*COUNSEL ON BEHALF OF  
ALL AMICI CURIAE*

/s/ Anne M. Voigts  
Partner  
Pillsbury Winthrop Shaw  
Pittman LLP  
anne.voigts@pillsburylaw.com  
2550 Hanover Street  
Palo Alto, CA 94304-1115  
(650) 233-4075

*COUNSEL FOR BCIC,  
BROWNSVILLE & GBIC*